

REED SMITH SHAW & MCCLAY LLP

Writer's Direct Numbers:
Phone 202-414-9481
Fax 202-414-9299
bkpennin@rsshm.com

1301 K Street, N.W.
Suite 1100 - East Tower
Washington, D.C. 20005-3317
Phone: 202-414-9200
Fax: 202-414-9299

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

November 13, 1998

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

**RE: Americatel Corporation
In the Matter of Truth-in-Billing and Billing Format
CC Docket No. 98-170**

Dear Ms. Roman Salas:

Enclosed for filing, in the above-captioned proceeding, is an original and four copies of the **Comments of Americatel Corporation** filed in the above-referenced docket on November 13, 1998.

Please return the "stamp and return copy" to the messenger for delivery back to our office.

If you have any questions regarding this submission, please call the undersigned.

Sincerely,

Judy Harris
Judith L. Harris

JLH/lam
Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of
Truth-in-Billing
and
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CC Docket No. 98-170

COMMENTS OF AMERICATEL CORPORATION

I. Introduction

Americatel Corporation ("Americatel"), by and through its undersigned counsel, submits these comments in response to the September 17, 1998 Notice of Proposed Rulemaking in CC Docket No. 98-170, In the matter of Truth-in-Billing and Billing Format, *Notice of Proposed Rulemaking*, CC Docket No. 98-170, FCC 98-232 (rel. Sept. 17, 1998) (hereinafter "Truth-in-Billing" or "NPRM").

In its NPRM, the Commission solicited comments from states, consumer groups, industry and the general public regarding how best to adopt and apply certain general principles to achieve its goal of "provid[ing] consumers with the information they need to make informed choices in [a] competitive telecommunications marketplace." NPRM, ¶1, at 2. Among the principles set forth in the NPRM were that telephone bills (1) should be clearly organized and highlight any new charges or changes to consumers' services; (2) should contain full and non-misleading descriptions of all charges and clear identification of the service provider responsible for each charge; and (3) should contain clear and conspicuous disclosure of any information consumers need to make inquiries about charges.

Americatel files these comments to bring to the attention of the Commission a situation that it believes not only implicates all three of these principles, but also stands to

impede the development of competition for telephone services. As the Commission stated in the opening sentence of its NPRM, "[o]ne of the primary goals of the Telecommunications Act of 1996 . . . is to make available to consumers new services and technologies by promoting the development of competition in all aspects of telecommunications services." NPRM at ¶1, at 1. By addressing and resolving the issue discussed hereinafter, the Commission can further its (and Congress') twin-and interrelated-goals of fostering competition and helping to provide consumers with the information they need to make informed choices. Only in this fashion will the American public reap the promise of a dynamic, open and unimpeded marketplace.

II. Discussion

Americatel is a U.S. based, majority-owned subsidiary of Empresa Nacional de Telecomunicaciones S.A., which is the largest long distance telecommunications company in Chile. On March 27, 1998, Americatel launched the first casual dial-around long distance service in America focused specifically on the growing Hispanic population in the U.S. It began its service in Chicago and now, only eight months later, Americatel markets to more than 17 million Hispanic customers in 35 states. Americatel's carrier access code is 1010-123 (formerly 10-123).

In anticipation of launching its dial around service, Americatel adopted and duly registered the names and associated trademarks by which it chose to be known and to do business: "10-123 Americatel" and "1010-123 Americatel" (hereinafter "DBA" or "DBA name").¹ Americatel has, from the beginning, used these tradenames in all of its radio and television advertisements; on all of its printed promotional materials; on its stationary and in business cards, only changing from 10-123 to 1010-123 in advertising when the carrier access

¹ Specifically, Americatel first began filing its state "DBA" registration in the autumn of 1997 and filed the federal registration in September, 1997 for 10-123 and in April, 1998 for 1010-123. Americatel registered both "DBA" names because, although it launched its service in the era of 3 digit CICs and 5 digit CACs, Americatel recognized that it would not be long until the industry was forced to transition to longer numbers.

codes were lengthened for all carriers. Indeed, Americatel has exclusively relied on its DBA in developing an identity and, as a result, it is by its DBA that Americatel is known by its dial around customers.

For this reason, in August, 1998, Americatel asked its billing agent, OAN Services Inc. ("OAN"), to request that the local exchange carriers ("LECs") with which OAN subcontracts to bill for Americatel's service, print Americatel's DBA, rather than just "Americatel Corporation" on the telephone bills of its customers. The majority of LECs acceded to this request without opposition. However, two LECs, Ameritech Corporation and U.S. WEST, Inc., unfortunately both located in regions of the country of key importance to Americatel given their sizeable Spanish-speaking populations, have refused to allow Americatel's DBA to appear on the bills they send out.²

Moreover, neither company has been shy about admitting that their positions are the result of their unwillingness to do anything to promote the business of an entity against which they hope some day to compete. In their view, since they are not required to provide billing services for Americatel (or anyone else), if they do agree to provide services, they can attach whatever conditions, and do it in whatever fashion, they choose.³ This intransigent position on the part of these two LECs has resulted in a great deal of confusion and, in some instances, complaints by users of dial-around services, only some of whom are customers of Americatel. Two types of problems have been the most prevalent; each has been called to the attention of both U.S. WEST and Ameritech.

² U.S. WEST did offer to use Americatel's DBA on its bills for a period of six (6) months and then, assumedly when U.S. WEST was closer to launching its own in-region long distance service, revert back to using Americatel's corporate name. Americatel believes that, not only is this time limited offer unjustifiable, but also that this proposed compromise would eventually result in more, not less, customer confusion.

³ In view of their positions, one cannot help but wonder whether if Americatel actually changed its corporate name, U.S. WEST and Ameritech would then refuse to bill for it at all.

First, there have been a number of telephone consumers who, in placing dial-around calls from their home phones, have confused Americatel's carrier access code ("CAC"), i.e., "1010-123," with that of another dial-around company (often with MCI's much-advertised "10-10-321" number), when placing their long distance calls. When their bills arrive, these customers see only "Americatel" and, not recognizing the name, think they might have been a victim of slamming and file complaints. Were these customers to see "1010-123 Americatel" on their bill instead, they (or at a minimum, the entity to which they complain) would immediately understand that perhaps the charge was incurred as a result of the customer transposing numbers when dialing, rather than as a result of unlawful slamming.

Another problem that has arisen is that Americatel's corporate name is sometimes confused with similar names of other service providers. On occasion, a customer upset with the other provider (let us say a "900" service) has ended up filing a complaint against Americatel instead. This too has caused confusion and unnecessarily consumed administrative resources to straighten out. If Americatel's DBA name were on customers' bills, making Americatel's unique access code readily visible, Americatel's charges for dial-around long distance service could easily be distinguished from other companies' charges for different services.

While Americatel is only familiar with the confusion that has resulted from not having Americatel's DBA on customers' bills, it must be the case that similar confusion results in any instance, and with respect to any company, whom a LEC refuses to bill under the name by which it is most widely known. Such confusion, in an already complex marketplace, should not be tolerated because of a fear by a LEC that to accede to a company's request to be billed by its DBA would somehow promote or advertise that company's business⁴ and, thus, make it more difficult for the LEC to compete against that company down the road.

⁴ Americatel notes that, in addition to being inappropriate, the refusal by these LECs is illogical. It is only with respect to those who are already Americatel customers that Americatel's request to be billed using its DBA is even relevant.

It is true, as U.S. WEST and Ameritech have pointed out, that no LEC has an obligation to advertise or promote Americatel's dial-around service (or the service of any other provider for which the LEC bills); it is also true that no LEC has a regulatory obligation to bill at all for any other service provider. However, once a LEC takes on a contractual obligation to bill, as both U.S. WEST and Ameritech have, in the case of Americatel through their contracts with OAN, that LEC does have a duty to execute its contractual obligation in a fair and impartial manner (not in an arbitrary manner dictated by its own future business plans) and in a manner that will clearly identify the particular provider whose services are being billed for.

As previously mentioned, OAN has billing contracts on behalf of Americatel with the vast majority of the LECs and has passed Americatel's request that it be billed by its DBA name on to each of them. Only U.S. WEST and Ameritech have refused to honor OAN's request. Americatel finds this phenomenon very telling in light of the fact that it was U.S. WEST and Ameritech that recently sought Commission approval of their attempted joint ventures with Qwest Communications to offer Owest's long distance service as part of U.S. WEST's Buyer's Advantage program and Ameritech's Complete Access program. The Commission unanimously found that U.S. WEST and Ameritech were attempting to enter the long distance market without first satisfying the statutory requirement that their own local markets be open to competition.

III. Conclusion

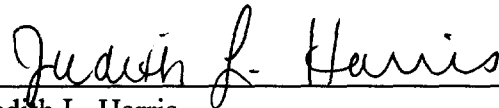
This matter of billing for providers' services in the names by which they are most commonly known clearly falls within the ambit of the Commission's current Truth-in-Billing and Billing Format NPRM and should be of concern to the Commission within that context. Among other issues, the Commission has sought guidance as to ways in which consumers' telephone bills can be more readable and comprehensible. It has proposed that the names of service providers be clearly and conspicuously displayed on bills in association with the charges of those providers. Americatel respectfully submits that one of the ways in which this can be

accomplished is by requiring that a service provider be able to specify to its billing agent (in Americatel's case, the LECs, through OAN), the name it wishes to use for billing purposes, as long as that is the name by which the provider is commonly known (i.e., will eliminate, rather than add to, confusion) and as long as the use of that name does not violate any law or rule or community sensibility. In the best interest of the consumer, once one service provider takes on a commitment to serve as a billing agent for another, that billing agent's own future business plans should have no place in how it executes the duties it has assumed.

Respectfully Submitted,

AMERICATEL CORPORATION

By:



Judith L. Harris

Brenda K. Pennington

REED SMITH SHAW & McCLAY LLP

1301 K Street, N.W.

Suite 1100 - East Tower

Washington, D.C. 20005

202-414-9200

November 13, 1998

CERTIFICATE OF SERVICE

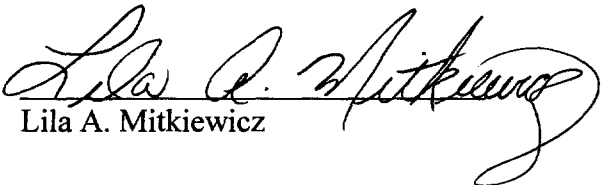
I, Lila A. Mitkiewicz, hereby certify that on this 13th day of November, 1998, copies of the foregoing **Comments of Americatel Corporation** were hand-delivered to the following parties.

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554
(Original and four copies)

Lawrence E. Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554
(Two copies)

International Transcription Service
1231 20th Street, N.W.
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(One copy and disk copy)

Ms. Anita Chang
Federal Communications Commission
Common Carrier Bureau
2025 M Street, N.W.
6th Floor
Washington, D.C. 20554
(Disk copy)


Lila A. Mitkiewicz